

MATTHEW D. POWERS (Bar No. 104795)  
[matthew.powers@weil.com](mailto:matthew.powers@weil.com)

EDWARD R. REINES (Bar No. 135960)  
[edward.reines@weil.com](mailto:edward.reines@weil.com)

JEFFREY G. HOMRIG (Bar No. 215890)  
[jeffrey.homrig@weil.com](mailto:jeffrey.homrig@weil.com)

JILL J. HO (Bar No. 236349)  
[jill.ho@weil.com](mailto:jill.ho@weil.com)

WEIL, GOTSHAL & MANGES LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065  
Telephone: (650) 802-3000  
Facsimile: (650) 802-3100

PATRICIA YOUNG (admitted *pro hac vice*)  
[patricia.young@weil.com](mailto:patricia.young@weil.com)

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

Attorneys for Plaintiff-Counterclaim Defendant  
NETAPP, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.

Defendant-Counterclaim Plaintiff.

Case No. 3:07-CV-06053-EDL

**STIPULATION AND ~~[PROPOSED]~~ ORDER  
MODIFYING BRIEFING SCHEDULE FOR  
SUMMARY JUDGMENT MOTION RE U.S.  
PATENT NO. 5,459,857**

WHEREAS, opening summary judgment briefs shall be filed on August 3, 2009;

WHEREAS, Network Appliance, Inc. ("NetApp") intends to file a motion for summary judgment with respect to Sun's United States Patent No. 5,459,857 ("the '857 patent");

WHEREAS, due to schedules and conflicts, Dr. Scott Brandt – Sun's expert on the '857 patent – will not be deposed until August 4, 2009;

1 THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE PARTIES THAT: the  
 2 deadline for filing the opening summary judgment motion on the '857 patent shall be extended  
 3 from August 3, 2009 to August 10, 2009. The deadline for filing the responsive summary  
 4 judgment motion on the '857 patent shall be extended from August 17, 2009 to August 24, 2009.  
 5 The deadline for filing the reply brief for the summary judgment motion on the '857 patent shall  
 6 be extended from August 31, 2009 to September 8, 2009 and request that the Court enter an order  
 7 to that effect. The filing deadlines for the parties' other motions for summary judgment would  
 8 remain unchanged. By extending the deadlines for this motion by one week, the parties do not  
 9 wish to disturb the hearing schedule for the summary judgment motions, such that the hearing for  
 10 the summary judgment motion on the '857 patent would remain on September 30, 2009.  
 11

12 Dated: July 30, 2009

13 DLA PIPER LLP (US)

14 By: /s/ Christine K. Corbett

15 MARK D. FOWLER  
 16 CLAYTON THOMPSON  
 17 DAVID ALBERTI  
 18 CHRISTINE K. CORBETT  
 19 YAKOV M. ZOLOTOROV  
 20 CARRIE L. WILLIAMSON

Attorneys for  
 Sun Microsystems, Inc.

21 Dated: July 30, 2009

22 WEIL, GOTSHAL & MANGES LLP

23 By: /s/ Jeffrey G. Homrig

24 MATTHEW D. POWERS  
 25 EDWARD R. REINES  
 26 JEFFREY G. HOMRIG  
 27 JILL J. HO

Attorneys for  
 NetApp, Inc.

**~~PROPOSED~~ ORDER**

Having considered the parties' stipulation, the joint request for relief is **GRANTED**. The August 3, 2009 deadline for filing the opening summary judgment motion on the '857 patent shall be continued to August 10, 2009. The August 17, 2009 deadline for filing the responsive summary judgment motion on the '857 patent shall be continued to August 24, 2009. The August 31, 2009 deadline for filing the reply brief for the summary judgment motion on the '857 patent shall be continued to September 8, 2009. All other deadlines and hearing dates with respect to the summary judgment briefing in the -6053 action are unchanged.

**IT IS SO ORDERED.**

Dated: July 31, 2009

